



FEDERAL RESERVE SYSTEM

12 CFR Part 241

Regulation OO; Docket No. R-1430

RIN 7100 –AD 81

Supervised Securities Holding Company Registration

AGENCY: Board of Governors of the Federal Reserve System (“Board”).

ACTION: Final Rule

SUMMARY: The Board is adopting this final rule to implement section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act” or “Act”), which permits nonbank companies that own at least one registered securities broker or dealer, and that are required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board and subject themselves to supervision by the Board. The final rule outlines the requirements that a securities holding company must satisfy to make an effective election, including filing the appropriate form with the responsible Reserve Bank, providing all additional required information, and satisfying the statutory waiting period of 45 days or such shorter period the Board determines appropriate.

DATES: The rule is effective July 20, 2012..

FOR FURTHER INFORMATION CONTACT: Amanda K. Allexon, Senior Counsel (202) 452-3818, or Bao Nguyen, Attorney, (202) 736-5599, Legal Division; or Michael J. Sexton, Assistant Director, (202) 452-3009, or Brendan Burke, Senior Supervisory Financial Analyst, (202) 452-2987, Division of Banking Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th and C Streets, NW,

Washington, DC 20551. Users of Telecommunication Device for the Deaf (TTD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background.

Section 618 of the Dodd-Frank Act permits a company that owns at least one registered securities broker or dealer (a “nonbank securities company”), and that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board as a securities holding company and become subject to supervision and regulation by the Board.¹ A securities holding company that registers with the Board under section 618 is subject to the full examination, supervision, and enforcement regime applicable to a registered bank holding company, including capital requirements set by the Board (although the statute allows the Board to modify its capital rules to account for differences in activities and structure of securities holding companies and bank holding companies). The primary difference in regulatory frameworks between securities holding companies and bank holding companies is that the restrictions on nonbanking activities that apply to bank holding companies do not apply to securities holding companies.

Under section 618 of the Act, a securities holding company that elects to be subject to supervision by the Board must submit a registration form that includes all such information and documents the Board, by regulation, deems necessary or appropriate. The statute also specifies that registration as a supervised securities holding company

¹ 12 U.S.C. 1850a.

becomes effective 45 days after the date the Board receives all required information, or within such shorter period as the Board, by rule or order, may determine.

Section 618 makes a registered securities holding company subject to all of the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (“BHC Act”) in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.² Consistent with the Dodd-Frank Act, the Board anticipates applying the same supervisory program, including examination procedures, reporting requirements, supervisory guidance, and capital standards, to supervised securities holding companies that the Board currently applies to bank holding companies. However, the Board may, based on experience gained during the supervision of supervised securities holding companies, modify these requirements as appropriate and consistent with section 618.

II. Notice of Proposed Rulemaking: Summary of Comments.

On September 2, 2011, the Board invited public comment on a proposed rule implementing the registration requirements and procedures for securities holding companies pursuant to section 618 of the Act.³ The Board received three comments, none of which addressed any substantive aspect of the proposed rule. One commenter expressed the view that firms should not elect to be supervised by the Federal Reserve because of a “lack of leadership at the FED Districts.” Another commenter included the phrase “supervised securities holding companies registration” in the subject line of the comment letter but provided no comment. The third commenter mistakenly believed that section 618 of the Dodd-Frank Act and the Board’s proposed Regulation OO apply to

² 12 U.S.C. 1850a(d)(1) and (e)(2).

³ 12 U.S.C. 1850a.

foreign companies that own national banks in the United States. This commenter argued that such foreign companies should be subject to supervision by the Board as supervised securities holding companies if they wish to operate in the United States by owning national banks. The Board is finalizing the rule with only technical modifications.

III. Description of Final Rule.

The final rule permits securities holding companies to elect to become supervised securities holding companies by registering with the Board. The final rule outlines the requirements that a securities holding company must satisfy to make an effective registration, including filing the appropriate form with the responsible Reserve Bank, providing all additional information requested by the Board, and satisfying the statutory waiting period of 45 days or such shorter period the Board determines appropriate.

Section 241.1 of the final rule outlines the authority under which the Board is issuing the rule. Section 241.2 of the final rule changes the proposed definition of the term “securities holding company” in order to more closely reflect the statutory language. The revised definition contains additional language, which makes clear that to become a securities holding company, a company must, among other things, be “required by a foreign regulator or a provision of foreign law to be subject to comprehensive consolidated supervision.” Under the Dodd-Frank Act and final rule, a company that is currently subject to comprehensive consolidated supervision by a foreign regulator, a nonbank financial company supervised by the Board, a bank holding company, a savings and loan holding company, an insured bank, a savings association, or a foreign banking organization with U.S. banking operations would not qualify for registration as a supervised securities holding company. Under the final rule, terms such as “affiliate,”

“bank,” “bank holding company,” “control,” and “subsidiary” are defined to have the same meaning as in section 225.2 of the Board’s Regulation Y.

Section 241.3 of the final rule requires a securities holding company that elects to register to become a supervised securities holding company to file the proper form with the responsible Reserve Bank. The Board is creating a new form for this purpose. The form, which is similar to the Board’s current form Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company (FR Y-3F; OMB No. 7100-0119), used by a company registering to become a bank holding company, includes a number of questions relating to the organizational structure of the securities holding company, its capital structure, and its financial condition. Specifically, the form requires a securities holding company electing to be supervised to submit:

1. An organization chart for the securities holding company showing all subsidiaries.
2. The name, asset size, general activities, place of incorporation, and ownership share held by the securities holding company for each of the securities holding company’s direct and indirect subsidiaries that comprise 1 percent or more of the securities holding company’s worldwide consolidated assets.
3. A list of all persons (natural as well as legal) in the upstream chain of ownership of the securities holding company who, directly or indirectly, own 5 percent or more of the voting shares of the securities holding company. In addition, the Board would request information concerning any voting agreements or other mechanisms that exist among shareholders for the exercise of control over the securities holding company.
4. For the senior officers and directors with decision-making authority for the securities holding company, the biographical information requested in the

Interagency Biographical and Financial Report FR 2081c (the Financial Report need not be provided).

5. Copies of the most recent quarterly and annual reports prepared for shareholders, if any, for the securities holding company and certain subsidiaries.
6. Income statements, balance sheets, and audited GAAP statements, as well as any other financial statements submitted to the securities holding company's current consolidated supervisor, if any, each on a parent-only and consolidated basis, showing separately each principal source of revenue and expense, through the end of the most recent fiscal quarter and for the past two (2) fiscal years.
7. A description of the methods used by the securities holding company to monitor and control its operations, including those of its domestic and foreign subsidiaries and offices (e.g., through internal reports and internal audits).
8. A description of the bank regulatory system that exists in the home country of any of the securities holding company's foreign bank subsidiaries. The description also should include a discussion of each of the following:
 - a. The scope and frequency of on-site examinations by the home country supervisor;
 - b. Off-site monitoring by the home country supervisor;
 - c. The role of external auditors;
 - d. Transactions with affiliates;
 - e. Other applicable prudential requirements;
 - f. Remedial authority of the home country supervisor;
 - g. Prior approval requirements; and,
 - h. Any applicable regulatory capital framework.

9. A description of any other regulatory capital framework to which the securities holding company is subject.

The final rule further provides that the Board may at any time request additional information that it believes is necessary to complete the registration.

Under the rule, the registration is considered filed when all information required by the Board is received. Section 241.3 of the final rule also states that a registration filed by a securities holding company becomes effective and supervision by the Board begins on the 45th calendar day after the date that a complete filing is received. Under the final rule, the Board also reserves the right to shorten the 45-day waiting period and begin consolidated supervision at such earlier date as the Board specifies to the securities holding company in writing.

The final rule provides that, upon an effective registration, a supervised securities holding company would be supervised and regulated as if it were a bank holding company, and that the nonbanking restrictions contained in section 4 of the BHC Act will not apply to a supervised securities holding company. This treatment will generally mean that supervised securities holding companies will, among other things, be required to submit the same reports and be subject to the same examination procedures, supervisory guidance, and capital standards that currently apply to bank holding companies. The final rule provides the Board with flexibility to adjust these requirements as appropriate to ensure that securities holding companies operate in a manner that is consistent with safety and soundness and that addresses the risks they pose to financial stability.

IV. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (“PRA”), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for the existing information collections are provided below. The OMB control number will be assigned for the new information collection related to registrations described below. The Board reviewed the final rule under the authority delegated to the Board by OMB.

Title of Existing Information Collections:

- The Annual Report of Bank Holding Companies (FR Y-6),
- The Report of Foreign Banking Organizations (FR Y-7),
- The Consolidated Financial Statements for Bank Holding Companies (FR Y-9C),
- The Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y-9LP),
- The Parent Company Only Financial Statements for Small Bank Holding Companies (FR Y-9SP),
- The Financial Statements for Employee Stock Ownership Plan Bank Holding Companies (FR Y-9ES),
- The Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y-9CS),
- The Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y-11 and FR Y-11S),

- The Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 and FR 2314S),
- The Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y-8),
- The Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y-12) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y-12A), and
- The Capital and Asset Report of Foreign Banking Organizations (FR Y-7Q), and the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7N and FR Y-7NS).

Frequency of Response: Annually, semi-annually, quarterly, event-generated.

Affected Public: Nonbank companies.

Abstract: The information collection reporting requirements are found in sections 241.3(a)(1) and 241.3(b)(3)(i) of the final rule. These requirements implement regulations related to section 618 of the Dodd-Frank Act, which, as discussed above, permit securities holding companies to register with, and subject themselves to supervision by, the Board. As previously noted, a supervised securities holding company is subject to the provisions of the BHC Act in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.

Section 241.3(a)(1) requires securities holding companies that elect to register to become supervised securities holding companies to file a registration form with the responsible Reserve Bank. The registration form asks for information on: the organization chart (including all subsidiaries), shareholders, senior officers and directors, methods used to monitor and control its operations, and foreign bank subsidiaries and the bank regulatory system in which these foreign bank subsidiaries operate. Section 241.3(b)(3)(i) requires supervised securities holding companies to be subject to supervision and regulation by the Board as if such companies were bank holding companies. Accordingly, the Board will require supervised securities holding companies

to file the same reports as bank holding companies as follows: FR Y-6 and FR Y-7 (OMB No. 7100-0297); FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9ES, and FR Y-9CS (OMB No. 7100-0128); FR Y-11 and FR Y-11S (OMB No. 7100-0244); FR 2314 and FR 2314S (OMB No. 7100-0073); FR Y-8 (OMB No. 7100-0126); FR Y-12 and FR Y-12A (OMB No. 7100-0300); FR Y-7Q, FR Y-7N and FR Y-7NS (OMB No. 7100-0125).

Estimated Burden

The estimated burden per filing for the registration form in section 241.3(a)(1) is eight hours (one business day). The Board estimates that approximately five securities holding companies would file a request to become a supervised securities holding company. Therefore, the total annual burden for the registration form is estimated to be 40 hours. Effective upon registration, and except as otherwise provided by order of the Board, a supervised securities holding company shall file the existing bank holding company reporting forms listed above on the calendar quarter-end under section 241.3(b)(3)(i). The hourly burden estimates associated with each of these reporting forms is not expected to change materially as the information to be collected is substantively similar to that which is currently being collected from bank holding companies. Presently, the Board is aware of only one company that would register as a supervised securities holding company.

For additional information on the current burden associated with any of the existing information collections, please see OMB's public website at: <http://www.reginfo.gov/public/do/PRAMain> . For copies of the current reporting forms, please see the Federal Reserve's public website at: <http://www.federalreserve.gov/reportforms/default.cfm>.

The Board has a continuing interest in the public's opinions of collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C

Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-NEW), Washington, DC 20503.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (“RFA”) requires each federal agency to prepare a final regulatory flexibility analysis in connection with the promulgation of a final rule, or certify that the final rule will not have a significant economic impact on a substantial number of small entities.⁴ The Board believes that the final rule will not have a significant economic impact on a substantial number of small entities, but nonetheless is conducting the Regulatory Flexibility Act Analysis for this final rule.

In accordance with section 618 of the Dodd-Frank Act, the Board is adopting Regulation OO (12 CFR 241 et seq.) to establish a process for a securities holding company to elect to be supervised by the Board. The final rule would establish the requirements and procedures for registering with the Board in order to become a supervised securities holding company. As noted above, a supervised securities holding company would be supervised and regulated as if it were a bank holding company and would be required to submit the same reports that currently apply to bank holding companies. The reasons and justification for the final rule are described in the Supplementary Information. The Board does not believe that the final rule duplicates, overlaps, or conflicts with any other Federal rules.

Under regulations issued by the Small Business Administration (“SBA”), a “small entity” includes those firms within the “Finance and Insurance” sector with asset sizes

⁴ See 5 U.S.C. 603, 604 and 605.

that vary from \$7 million or less in assets to \$175 million or less in assets.⁵ The Board believes that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature. Consequently, securities holding companies with assets sizes of \$175 million or less are small entities for purposes of the RFA.

As discussed in the Supplementary Information, the final rule applies to any securities holding company that elects to be supervised by the Board regardless of such a company's asset size. However, the statute applies only to registered securities broker and dealers that operate on an international basis and are required by a foreign jurisdiction to be supervised on a comprehensive consolidated basis. To the Board's knowledge, no registered securities broker or dealer with total assets under \$175 million meets this requirement. At this time, only one company, which has assets well in excess of \$175 million, has expressed interest in electing to become a supervised securities holding company. Moreover, only one company ever elected to be supervised under the investment bank holding company framework administered by the Securities and Exchange Commission, which is the statutory framework replaced by this final rule.

In light of the foregoing, the Board does not believe that the final rule would have a significant economic impact on a substantial number of small entities supervised by the Board.

C. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1,

⁵ 13 CFR 121.201.

2000. The Board invited comment on whether the proposed rule was written plainly and clearly, or whether there were ways the Board could make the rule easier to understand. The Board received no comment on these matters and believes that the final rule is written plainly and clearly.

List of Subjects in 12 CFR Part 241

Administrative practice and procedure, Holding companies, Securities, Federal Reserve System, Brokers and dealers, Foreign law, Reporting and recordkeeping requirements.

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the Supplementary Information, the Board of Governors of the Federal Reserve System adds new Part 241 to Chapter II of Title 12 as follows:

1. Add part 241 to read as follows:

Part 241—SECURITIES HOLDING COMPANIES (REGULATION OO)

Sec.

241.1 Authority and purpose.

241.2 Definitions.

241.3 Registration as a supervised securities holding company.

Authority: 12 U.S.C. 1850a.

§ 241.1 Authority and purpose.

- (a) *Authority.* This part is issued by the Board pursuant to section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1850a).

- (b) *Purpose.* This part establishes the procedures by which a securities holding company may elect to register to be supervised by the Board.

§ 241.2 Definitions.

Except as defined below, terms used in this part have the same meaning given them in 12 CFR 225.2.

(a) *Securities holding company.* (1) A securities holding company means—

- (i) Any company that directly or indirectly owns or controls, is controlled by, or is under common control with, one or more brokers or dealers registered with the Securities and Exchange Commission; and
- (ii) Is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision.

(2) A securities holding company does not include a company that is—

- (i) A nonbank financial company supervised by the Board pursuant to Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.);
- (ii) An insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) or a savings association;
- (iii) An affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) or an affiliate of a savings association;

- (iv) A foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));
- (v) A foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or
- (vi) Currently subject to comprehensive consolidated supervision by a foreign regulator.

(b) *Supervised securities holding company* means a securities holding company that is supervised by the Board pursuant to this part.

§ 241.3 Registration as a supervised securities holding company.

(a) Registration.

- (1) *Filing Requirement.* A securities holding company may elect to register to become a supervised securities holding company by filing the appropriate form with the responsible Reserve Bank. The responsible Reserve Bank is determined by the Director of Banking Supervision and Regulation at the Board, or the Director's delegee.
- (2) *Request for additional information.* The Board may, at any time, request additional information that it believes is necessary to complete the registration.
- (3) *Complete filing.* A registration by a securities holding company is considered to be filed on the date that all information required on the appropriate form is received.

(b) *Effective date of registration.*

- (1) *In general.* A registration filed by a securities holding company under paragraph (a) of this section is effective on the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank.
- (2) *Earlier notification that a registration is effective.* The Board may notify a securities holding company that its registration to become a supervised securities holding company is effective prior to the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank. Such a notification must be in writing.
- (3) *Supervision and regulation of securities holding companies.* (i) Upon an effective registration and except as otherwise provided by order of the Board, a supervised securities holding company shall be treated, and shall be subject to supervision and regulation by the Board, as if it were a bank holding company, or as otherwise appropriate to protect the safety and soundness of the supervised securities holding company and address the risks posed by such company to financial stability.

(ii) The provisions of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) do not apply to a supervised securities holding company.

By order of the Board of Governors of the Federal Reserve System, May 29, 2012.

Jennifer J. Johnson,
Secretary of the Board.

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